

# Occupational Licensing Agencies Should Not be Centralized, but Stronger Oversight is Needed

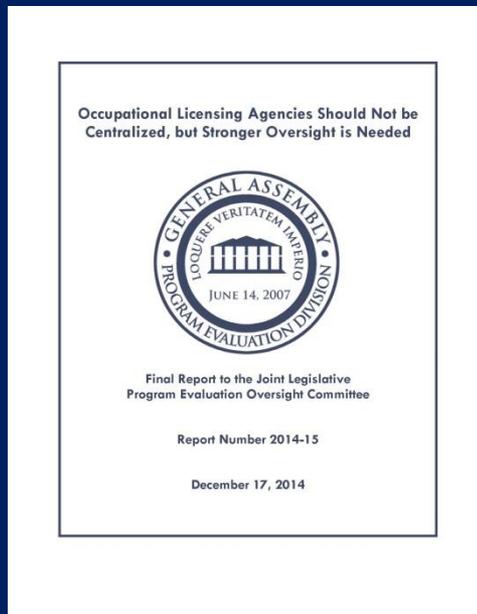
**A presentation to the  
Joint Legislative Administrative Procedure Oversight  
Committee**

**January 5, 2016**

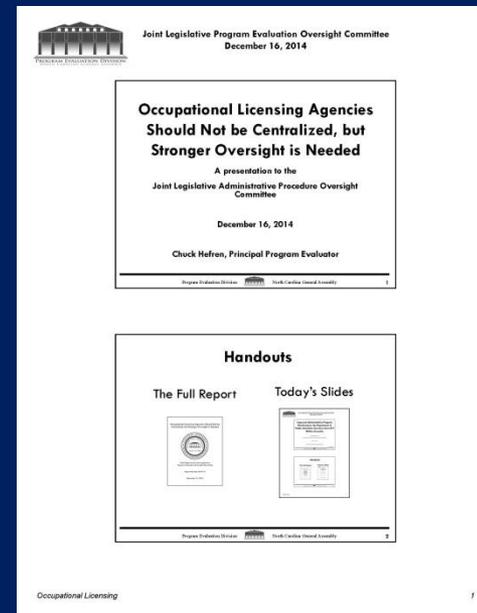
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# Handouts

## The Full Report



## Today's Slides



# Study Direction

- Directed by General Assembly in Session Law 2013-413, Section 10.(a)
- Evaluate the structure, organization, and operation of independent occupational licensing agencies (OLAs) as defined by G.S. 93B-1

# Independent Occupational Licensing Agencies (OLAs)

- PED identified 55 OLAs that meet statutory definition
- Fully independent state agencies
  - do not receive any state general revenue
  - are not subject to legislative requirements concerning the expenditure of funds

Report p. 8-9

# Overview: Findings

1. Regulatory authority and administrative responsibilities should not be transferred from OLAs to a single state agency
2. Current statutory reporting requirements do not provide adequate oversight of OLA performance

# Overview: Findings

3. There is inadequate oversight to ensure that OLA enforcement processes are effective
4. Establishment of an Occupational Licensing Commission can strengthen oversight and help OLAs improve performance

# Overview: Findings

5. Twelve OLAs did not provide sufficient information to justify continued licensing authority
6. Consolidation of ten OLAs can help ensure that necessary resources are available to effectively regulate licensed occupations

# Overview: Recommendations

1. Establish an Occupational Licensing Commission
2. Establish a list of licensing entities
3. Establish complaint processing requirements

# Overview: Recommendations

4. Require periodic performance audits
5. Conduct a review to determine the continued need to authorize occupational licensure for 12 OLAs
6. Consolidate the operations of ten OLAs with another licensing entity

# Background

# Objectives of Occupational Regulation

- Ensure that the public is protected from harm
- Provide assurances that the regulated individual is competent
- Provide a means to enforce occupational standards

# Occupational Regulation Can Be Achieved in Several Ways

Most restrictive ↓ Least restrictive	Form of Occupational Regulation	Risk to Public Welfare	Characteristics
	<b>Licensure</b>	<b>High</b>	<b>Prohibits anyone from obtaining livelihood in the occupation without permission from a government agency</b>
	<b>Certification</b>	<b>Moderate</b>	<b>Individuals not certified may practice but cannot use protected title</b>
	<b>Registration</b>	<b>Low</b>	<b>Requires individuals to list their names with a designated government agency</b>

# Functions of License Regulation

- Licensure – Establishes minimum requirements for prospective licensees and for continued licensure
- Enforcement – Enforces laws, rules, and professional standards as specified in the associated practice act
- Administrative – Provides essential support services to ensure regulatory functions are cost-effectively achieved

Report p. 4-5

# Findings

# Finding 1

Transferring the regulatory authority and administrative responsibilities from OLAs to a single state agency may not result in improved performance and would likely entail high implementation costs to realize potential gains in efficiency

Report p. 10

# Centralized Regulation is More Efficient, but Performance is Mixed

Performance Measure	North Carolina	Florida	South Carolina	Virginia
Cost per licensee (lower is better)	<b>\$96.47</b>	\$69.16	\$60.12	\$68.48
Complaints processed per 10,000 residents (higher is better)	<b>10.30</b>	7.98	7.30	10.31
License suspensions and revocations per 10,000 licensees (higher is better)	<b>10.19</b>	8.46	1.78	12.62

# Centralization Requires a Significant Investment

- New investments in information technology
  - Minnesota: \$35M for online licensing system
  - Florida: \$68M for online licensing system, internet portal, and call center
- Additional resources required to establish support services

Report p. 13

# Finding 2

Statutory reporting requirements do not provide adequate oversight of OLA performance

Report p. 15

# Inadequate Oversight Reporting and Monitoring

- Statute lacks a clear definition and list of entities subject to reporting requirement
- Statutorily mandated reporting requirements are insufficient to evaluate effectiveness
- No statutory requirement to conduct external reviews of performance data or regulatory processes

Report p. 15-18

# Finding 3

There is inadequate oversight to ensure that OLA enforcement processes are effective

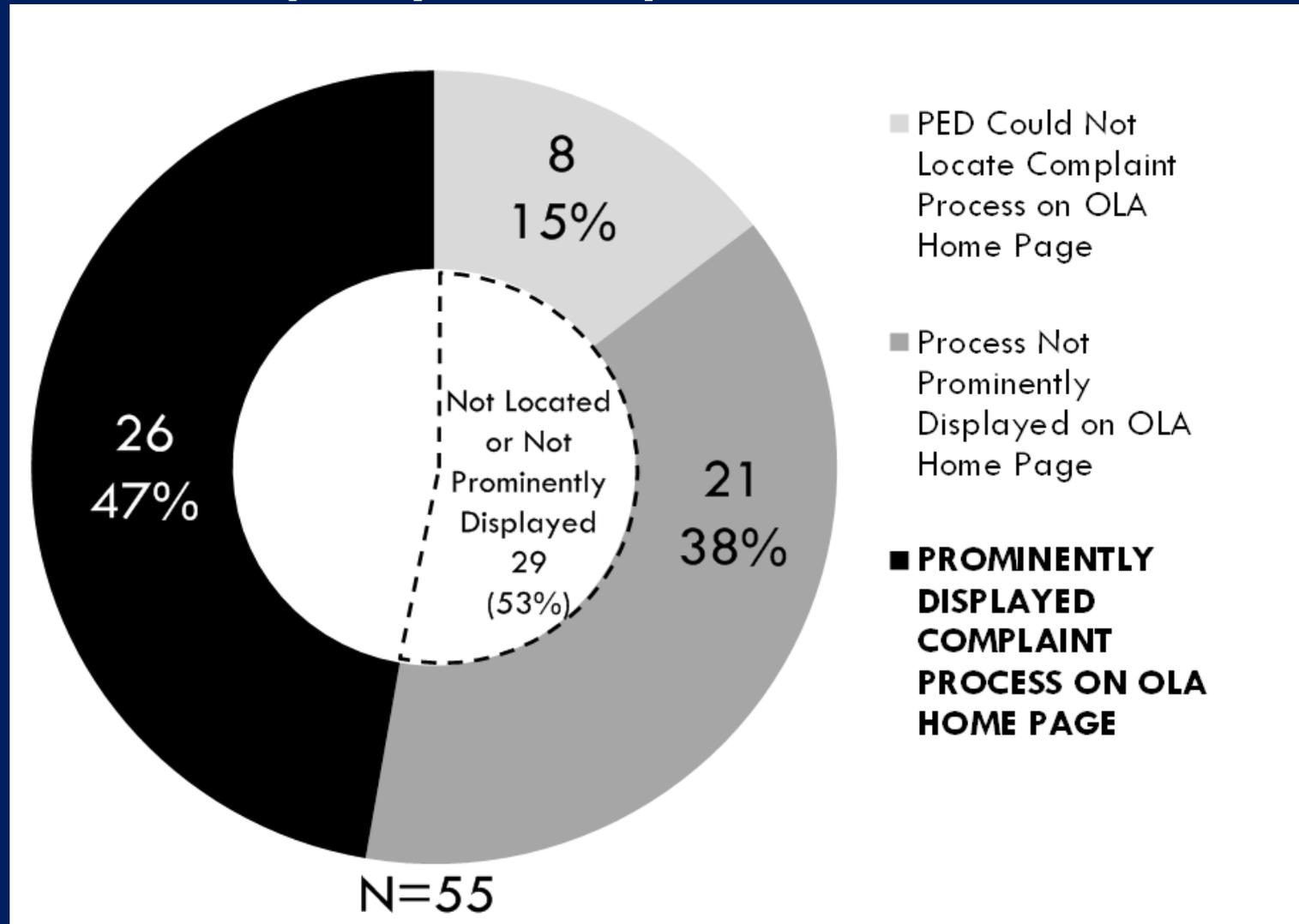
# Inadequate Oversight Enforcement Function

No statutory requirement to:

- identify necessary complaint submission requirements
- notify complainant of outcome
- maintain and record complaint process information

Report p. 18-22

# Most OLA Websites Fail to Prominently Display Complaint Process



# Finding 4

Establishment of an Occupational Licensing Commission can help OLAs realize the advantages of centralized administration without sacrificing the benefits associated with independent OLAs

# Benefits of an Occupational Licensing Commission

Area of Concern	Occupational Licensing Commission Benefit
Operating efficiency	Facilitate sharing of services among OLAs
Information management	Collect and disseminate OLA performance information
Complaint processing	Assist the public and OLAs in determining jurisdictional authority for submitted complaints
Scope of practice disputes	Provide mediation services between OLAs regarding scope of practice disputes

Report p. 24

# Finding 5

Twelve OLAs did not provide sufficient information to justify continued licensing authority

# OLA Elimination Assessment Criteria

Assessment determined whether the risk to public harm is sufficient to justify the costs to public and practitioners, which include:

- increased cost to consumers
- restrictions on the ability of individuals to work
- restrictions on public access to services
- limits on licensee mobility

Report p. 25

# OLA Elimination Assessment Results

- Sufficient information existed to conclude that regulatory authority for 43 OLAs should be continued
- Continued licensure authority for 12 OLAs should be subject to additional legislative review

# OLAs Identified for Review

1. Cape Fear River Navigation and Pilotage
2. Electrolysis
3. Fee-Based Practicing Pastoral Counselors
4. Foresters
5. Interpreters and Transliterators
6. Landscape Architects
7. Landscape Contractors
8. Locksmiths
9. Morehead City Navigation and Pilotage
10. Opticians
11. Recreational Therapy
12. Refrigeration

Report p. 27

# Finding 6

Consolidation of ten OLAs can help ensure that necessary resources are available to effectively regulate licensed occupations

# OLA Consolidation Assessment Criteria

Consolidation is appropriate when OLA lacks the necessary resources to effectively regulate the occupation

- Helps ensure adequate regulation
- May result in improved services

# OLA Consolidation Assessment Results

- Ten OLAs should be consolidated
- Merge with an entity that performs regulation in the same industry

# OLAs Identified for Consolidation

1. Acupuncture
2. Athletic Trainers
3. Cape Fear River Navigation and Pilotage
4. Environmental Health Specialists
5. Fee-Based Practicing Pastoral Counselors
6. Foresters
7. Locksmiths
8. Morehead City Navigation and Pilotage
9. Nursing Home Administrators
10. Opticians

Report p. 30

# Recommendations

# Recommendation 1

## Establish an Occupational Licensing Commission

Report p. 32

# Establish Occupational Licensing Commission

- Responsible for providing assistance to the General Assembly and OLAs in improving effectiveness
- Administratively housed in Department of Commerce
- Staffed with state employees and funded from OLA receipts

Report p. 32

# Recommendation 2

Establish a list of licensing entities subject to statutory reporting requirements

# Establish a List of Regulatory Entities in Statute

Licensing entity criteria:

- has statutory authorization to prohibit gainful employment in occupation
- does not use General Fund revenue to perform its activities

Occupational Licensing Commission should provide proposed list to Joint Administrative Procedure Oversight Committee

# Recommendation 3

Establish OLA complaint processing requirements

Report p. 34

# Complaint Processing Requirements

## Minimum standards:

- Electronic complaint submission capability
- Complaints only require information necessary to determine jurisdictional authority
- Current status and final determination notification
- Sufficient information maintained for an external entity to monitor and evaluate process

Occupational Licensing Commission should provide proposed statutory changes to Joint Administrative Procedure Oversight Committee

Report p. 34-35

# Recommendation 4

Require periodic audits of key regulatory activities and associated performance measurement data

# Require Periodic Performance Audits

Amend Chapter 93B to require financial and performance audits every three years

Performance audit should evaluate:

- accuracy of key performance measures
- whether key regulatory activities are performed in accordance with documented procedures

Report p. 35

# Recommendation 5

Conduct a review to justify continued licensing authority for 12 OLAs

Report p. 35

# Continued Licensing Authority

To ensure OLAs have opportunity to justify continued need for licensure:

- General Assembly should direct Joint Administrative Procedure Oversight Committee to conduct evaluation
- Occupational Licensing Commission should provide requisite information to Committee by September 30, 2016

# Recommendation 6

Consolidate the operations of ten OLAs with another licensing entity

Report p. 36

# OLA Consolidation

Occupational Licensing Commission should develop consolidation plan to include:

- Recommended regulatory entity for each OLA consolidation
- Recommended statutory changes

Plan should be submitted to Joint Administrative Procedure Oversight Committee

Report p. 36-37

# Summary of Findings

1. OLAs should not be transferred to a central state agency
2. Insufficient state-level oversight exists to ensure OLAs are achieving objectives
3. Complaint process oversight is inadequate
4. Occupational Licensing Commission can help improve performance
5. Twelve OLAs identified for additional legislative review of licensing authority
6. Ten OLAs identified for consolidation

# Summary of Recommendations

1. Establish an Occupational Licensing Commission to assist the General Assembly and OLAs in improving effectiveness
2. Ensure that the OLAs are clearly defined and listed in statute
3. Establish complaint process standards
4. Require periodic performance audits
5. Determine need for continued licensing authority for 12 OLAs
6. Consolidate ten OLAs with another licensing entity

Report available online at  
[www.ncleg.net/PED/Reports/reports.html](http://www.ncleg.net/PED/Reports/reports.html)

